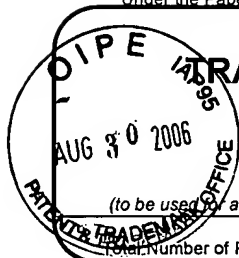


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PTO/SB/21 (09-04)

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# TRANSMITTAL FORM

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Total Number of Pages in This Submission

Application Number	10/826,153
Filing Date	April 16, 2004
First Named Inventor	Scher
Art Unit	1631
Examiner Name	Russell Negin
Attorney Docket Number	01-002001

## ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Nanosys, Inc.		
Signature	<i>Andrew L. Filler</i>		
Printed name	Andrew L. Filler		
Date	8-28-06	Reg. No.	44,107

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>Michelle Chan</i>		
Typed or printed name	Michelle Chan	Date	August 28, 2006

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Appl. No.	:	10/826,153	Confirmation No. 8584
Applicant	:	Erik C. Scher et al.	
Filed	:	April 16, 2004	
TC/A.U.	:	1631	
Examiner	:	Russell Negin	
Docket No.	:	01-002001	
Customer No.	:	33140	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement mailed August 2, 2006, Applicants respectfully elect to prosecute claims in Group II (Claims 26-48) without traverse. With respect to the Examiner's requirement for species elections with respect to claims 27, 30, 32, 33, 36, 40, 42, 43, 45, 46 and 48 in Group II, Applicants respectfully traverse. The Examiner has imposed an unreasonable requirement for over 25 species elections for claims in Groups I and II. With respect just to claims in Group II elected by Applicant herein, the Examiner has required 11 species elections alone.

In particular, all the claims in Group II for which the Examiner has required species election are Markush group claims. Under MPEP Section 803.02, if the

members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all claims on the merits, even though they may be directed to independent and distinct inventions. Applicants are of the belief that it would not pose an undue serious burden for the Examiner to perform a reasonably comprehensive search of the species in each of these 11 Markush group claims, and that the corresponding potential increase in cost for the Applicants to file many applications to cover their different species inventions would be unreasonable if no generic claim is found to be allowable.

Applicants believe that most of the claims subject to species restriction in Group II, if not all of the claims, contain species that are sufficiently related in light of the subject matter of the instant claimed invention that a search and examination of the entire claims and all members of the Markush group in the claims arguably can be made without serious burden, even though they may be directed to independent and distinct inventions. For example, dependent claims 32 and 33 are Markush group claims which recite various semiconductor compositions for the claimed nanocrystals. All of the recited compositions are conventional Group III-V, Group II-VI, or Group IV semiconductor materials that are sufficiently related in terms of their light emission characteristics that a search and examination of only one or a few species within each Group can be readily made without undue burden and should be sufficient to illuminate any relevant background art in this area. Accordingly, it is Applicants' position that the Examiner should not require provisional election of a single species in each of claims 27, 30, 32, 33, 36, 40, 42, 43, 45, 46 and 48.

However, to the extent that the Examiner maintains his position that species elections are required for each of the claims in Group II as set forth in the Examiner's August 2, 2006 Office Action, in order to expedite prosecution of the instant application, Applicants respectfully elect the following species:

1. Claim 27 – semiconductor nanocrystals

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Amnd dated August 28, 2006  
Reply to Office Action of August 2, 2006

2. Claim 30 – substituted silane
3. Claim 32 – InP
4. Claim 33 – CdSe
5. Claim 36 – colloidal synthesis
6. Claim.40 – UV wavelengths
7. Claim 42 – varying a concentration of a nanocrystal constituent
8. Claim 43 – intravenous
9. Claim 45 – varying a size of a nanocrystal
10. Claim 46 – polymer
11. Claim 48 - animals

Applicants believe that the present application is in condition for early examination, and action toward that end is respectfully requested. If the Examiner believes that a telephone interview would expedite the examination of this application, the Examiner is requested to contact the undersigned at the telephone number provided below.

Respectfully submitted,



Andrew L. Filler  
Reg. No. 44,107

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